State legislatures together consider approximately 150,000 bills each session, Robert L. Guyer, JD, emphasized to his audience of DO leaders and association executives representing state osteopathic medical associations and specialty societies from around the country.

“Most legislatures lack the time, money, staff, technical expertise and interest in your issue,” he told attendees of the AOA’s Healthy Partnerships and Patient Advocacy Training Conference that took place June 26-27 in New York City. “Legislatures have to be lobbied. Lawmakers are motivated by special interest groups.”

Special interest groups provide value to legislatures in the form of ideas, labor, technical expertise, political strength and improved legislative efficiency, he said.

During his hands-on program titled “How to Successfully Lobby State Legislatures,” groups of audience members developed advocacy strategies for specific scenarios and then “lobbied” Guyer, who portrayed a legislator. Guyer presented a wealth of practical tips on state-level advocacy, which is a major focus of the AOA in its efforts to reform professional liability insurance (PLI) and prevent nonphysician clinicians from expanding their scope of practice.

The advocacy training conference was just one of several such conferences the AOA has sponsored since 2001 with unrestricted educational grants from Pfizer. In 2004, a second Healthy Partnerships and Patient Advocacy Training Confere-
ence took place Aug 28-29 in Las Vegas. (For more on the Las Vegas conference, see “Swaying the public” on Page 36.)

**Knowing the rules**
When is the best time to lobby?

“When you don’t need anything,” advised Guyer, the founder and president of Engineering THE LAW, a Gainesville, Fla-based firm that trains clients on how to lobby state legislatures and executive agencies. “You are building relationships with lawmakers that you are going to cash in on down the road.”

Effective lobbying is established on trust, Guyer explained, noting that “trust rests on three legs: honesty, accuracy and credibility.”

Being credible means that lobbyists must do their homework. They need to be aware of the influences on lawmakers, be familiar with a legislature’s formal processes, and abide by the rules.

Legislatures operate according to three sets of rules, according to Guyer: written, unwritten, and unwritten and unspoken.

Written rules include the formal processes of how a bill becomes a law. Unwritten rules are insights, such as understanding that legislatures don’t exist to solve the problems one special interest group is having with another special interest group.

Rules that are both unwritten and unspoken include the effective use of body language to communicate with legislators. “So much of lobbying work is not spoken or written words but a look in the eye that says, ‘If you can help me, I’ll help you,” Guyer noted.

“You are building relationships with lawmakers that you are going to cash in on down the road.”

—Guyer

**Educating lawmakers**
State legislators usually are not lawyers, Guyer pointed out. Most with full-time jobs outside of the legislature, they can range from farmers to fishermen to real estate agents.

Because legislators consider a multitude of bills each session, “their time and attention are consumed,” he reiterated.

“Expect lawmakers and their staffs to know little about you and to know even less about your issue,” Guyer said. “They also do not know your issue’s politics.”

Successful lobbying, he said, depends on educating lawmakers about:

- yourself.
- your issues.
- the need for your bill.
- the technical foundations of your issue.
- the legal foundations of your issue.
- the politics surrounding your issue.
- how your idea is good for the lawmaker, the district and the state.

“You want to get to your lawmakers before your opponent does,” emphasized Guyer, who is the author of Guide to State Legislative Lobbying—Revised Edition. That way, an organization stands a good chance of providing lawmakers with their first exposure to the issue in question.

**Motivating lawmakers**
“Lawmakers have to be motivated,” Guyer exhorted conference attendees. “Getting their support rests on their individual political calculus. You must show those few that matter that it is in their best interest to support you.

“You meet lawmakers’ legislative needs, and they will meet yours.”

In planning how to motivate legislators, special interest groups should first assign a value to each lawmaker. According to Guyer, legislators can be divided into three levels:

- Level I—in key positions (few).
- Level II—not key but could help (few).
- Level III—irrelevant (80%).
Next, Guyer continued, the organization should assess each lawmaker’s “psyche.”

“Type 1 lawmakers”—those who want to make a difference in the world—make up less than 30% of all legislators, he said. “Type 2 lawmakers”—those who want to “be somebody”—constitute at least 70% of all legislators.

The third step in the planning process, according to Guyer, is to discover the pressures on individual legislators—political, professional and personal. The fourth step is to identify the individual lawmakers’ supporters inside and outside of the district.

Determining the “motivators” of each lawmaker to be lobbied is the fifth step in the planning process, observed Guyer, who mentioned seven possibilities:

- remaining in office.
- succeeding in office.
- promoting personal politics.
- advancing the public good.
- conforming to leadership.
- furthering their political party.
- advancing self-interests.

When preparing for meetings with selected lawmakers, lobbyists need to realize that “material facts alone seldom get votes,” said Guyer.

On the other hand, “political facts are essential,” he emphasized.

Communicating in person

Expect legislators and their staffs to listen for just a few moments, Guyer admonished the DOs and other association representatives in his audience, noting that “in-person” communication is 70% to 80% nonverbal.

“Conviction, appearance, eye contact, body language, attitude and tone communicate more than words,” he said. “Be calm but enthusiastic. Smile.

“Focus on the lawmaker’s needs, not yours. Don’t try to convert the lawmaker. Show him or her how your ideas advance his or her agenda.”

During the second part of his workshop, Guyer asked attendees to split into
small groups to review hypothetical sce-
narios that included critical information
on the fictitious lawmakers to be lobbied.
The teams planned and carried out mock
“3-minute presentations,” with Guyer
playing the role of an influential law-
maker.
Each group was evaluated on whether
they:
- introduced the team members and the
  bill’s name, topic and sponsors.
- offered a business card with the request-
ed action.
- mentioned the hometowns of the con-
 stituents on the team.
- identified other supportive constituents.
- identified supportive lawmakers of the
  same party or political persuasion.
- gave one reason for the legislator to sup-
  port them, the organization they repre-
  sent, and their bill.
- asked for the vote.
- thanked the legislator for his or her
  attention.
(continued on the next page)
Valuable insights, tools
Those who participated in the AOA’s advocacy training conference in New York City took away many insights and practical tips from Guyer’s workshop.

“Mr Guyer’s workshop was outstanding. It provided me with the appropriate tools and techniques to attempt to effect change by lobbying in my home state of Florida regarding three highly controversial and confusing amendments that are being placed on the November Florida ballot,” emphasized Stanley E. Skopit, DO, the 2003-04 president of the American Osteopathic College of Dermatology.

For example, Florida’s Amendment 3 would ensure that injured claimants—as opposed to trial lawyers—receive the lion’s share of awarded damages in medical liability cases. “Hopefully, this would discourage trial lawyers from filing frivolous lawsuits,” Dr Skopit predicted. “It would encourage quality physicians to keep practicing in Florida and would improve patients’ access to the best available and most affordable healthcare.

“Lobbying, much like medicine, is an art and a science.”
—Dr Lopez

“As a political neophyte, I was excited about the opportunity to acquire the skills necessary to be an effective lobbyist,” said Dr Lopez, an associate clinical professor at the University of North Texas Health Science Center at Fort Worth—Texas College of Osteopathic Medicine. “To my pleasant surprise, I saw that lobbying, much like medicine, is an art and a science.

“Like physicians, lobbyists must be well-informed and prepared, follow guidelines and protocols, and be ‘people persons’ as they strive to guide, educate and influence uninformed legislators, who are overburdened with hundreds of unresearched bills and lack the time to vote responsibly.”

“I particularly enjoyed the mock lobbying exercise, interacting with Bob Guyer as a supposedly influential lawmaker,” Dr Lopez added. “This allowed us to experience firsthand the ‘art of lobbying’ while learning the systematic steps necessary to successfully accomplish our identified legislative goals. We learned to clearly state our concern and assess and employ perceived political strengths, while defusing weaknesses and counter viewpoints and engaging the support of other diverse groups.

“Most importantly, we learned to touch the softer side of our legislator by addressing personal or family issues that he could relate to personally.”

Swaying the public
Nevada’s medical liability crisis took center stage at the AOA-Pfizer Healthy Partnerships and Patient Advocacy Training Conference in Las Vegas in August.

Since 2001, PLI rates in Nevada have increased by 200% overall, noted Rudy R. Manthei, DO, the chairman of Keep Our Doctors in Nevada (KODIN). Patients in the state have limited access to obstetrician-gynecologists, and physicians in general are unwilling to perform higher-risk procedures, he said.

“Physicians are leaving Nevada,” emphasized Dr Manthei, noting that Nevada has fallen to 48th in the nation in the ratio of physicians to patients. He and Cody Johnson of November Inc, a public relations firm specializing in political
Influencing Legislators and the Public

During the AOA’s Healthy Partnerships and Patient Advocacy Training Conference in Las Vegas in August, Rudy R. Manthei, DO (right), tells attendees about the efforts of Keep Our Doctors in Nevada (KODIN) to promote medical liability reform. Standing at the podium is co-presenter Cody Johnson of November Inc.

Dr Manthei is KODIN’s chairman and the medical director for ophthalmology at Nevada Eye & Ear, based in Henderson, Nev. (Photo by Michael Caristo of Caristo Photography in Las Vegas)

Affecting state legislation

On Nov 2, Nevada’s voters face three conflicting ballot initiatives concerning medical liability, Dr Manthei related. As he explained to conference attendees, KODIN has been urging Nevadans to vote “yes” on Question 3, which calls for medical liability reform that would:

- **limit runaway lawyer fees**—Lawyers’ contingency fees would be limited to 40% of the first $50,000; 33% of the next $50,000; 25% of the next $500,000; and 15% of awards of more than $600,000.

- **stop “double dipping”**—Juries would be told before delivering a verdict when damages or medical expenses are already covered by insurance carriers or other parties.

- **extend payments**—Awards of more than $50,000 would be paid through regular installments instead of a lump sum.

- **stop exceptions**—Nevada’s existing $350,000 limit on noneconomic damages would be strengthened by eliminating exceptions.

- **create “fair share” liability**—Defendants found liable would pay damages in proportion to their fault—no more, no less.

**“Patient education is everything.”**

—Dr Manthei

AOA Trustee Martin S. Levine, DO, who served as the moderator of the AOA’s Healthy Partnerships and Patient Advocacy Training Conference in Las Vegas, displays a copy of the ad the AOA ran on Sunday, Aug 29, in the Las Vegas Review-Journal. (Photo by Michael Caristo of Caristo Photography in Las Vegas)
Dr Manthei pointed out that trial lawyers have managed to place their own initiatives on the Nevada ballot that would “neutralize” the medical liability reforms of Question 3.

“Question 4 calls for a decrease in insurance premiums by 20% to 40%, which on face value sounds like an excellent thing to support,” Dr Manthei said. “But bottom line, our state insurance commission says that it would not decrease insurance premiums. And buried on page 6, the [ballot initiative] document says that awards cannot be limited.

“Similarly, Question 5 is called ‘Stop Frivolous Lawsuits.’ But Question 5 would not make it any more difficult to file a frivolous lawsuit. It actually would take away certain rights in the judicial system in that it also says that attorneys’ fees cannot be limited.”

Each of these ballot initiatives is several pages long, so it is highly unlikely that voters will read them in their entirety, Dr Manthei observed. Thus, KODIN has been forced to educate the public to vote not only for Question 3 but also against Question 4 and Question 5.

**Grassroots campaign**

Dr Manthei estimates that between 60% and 70% of Nevada’s physicians are involved in the KODIN campaign—by supporting KODIN financially, engaging in a variety of grassroots activities, and displaying and distributing KODIN-produced materials that explain how the medical liability crisis in Nevada is threat-
“When we started this, we were optimistic that we might get $500,000 from Nevada physicians,” Dr. Manthei said. “We have doubled that.

“Physicians have really come on board with this campaign financially.”

Physicians throughout the state have been displaying KODIN signs and brochures in their offices. “Patient education is everything,” according to Dr. Manthei, who is the medical director for ophthalmology at Nevada Eye & Ear in Henderson, Nev. “When a patient comes into our offices, we have posters. We have information explaining the issues. We have buttons that say, ‘Ask me about Question 3.’”

Nevada’s physicians have also been participating in “Get Out the Vote” drives and hosting fund-raising receptions and information meetings to spread the word. They have been writing letters to the editor and talking to their friends, neighbors and everyone else they come into contact with about how the medical liability crisis affects patients’ access to care.

In support of the KODIN campaign, the AOA ran an ad on Sunday, Aug 29, in the Las Vegas Review-Journal highlighting how even the most vulnerable of patients could lose access to healthcare.

In addition, the AOA has reinforced KODIN’s message with a mobile billboard featuring a hand rolling dice and the tagline, “Don’t Gamble With Your Health Care.”

If the Question 3 ballot initiative passes (but not Questions 4 or 5), Nevada will become a role model in the battle for PLI reform, just as California has been, Dr. Manthei noted.

“If we pass medical liability reform in Nevada, we’ll create momentum,” he said. “Once this precedent is set, it will be easier for other states to do the same thing.”

Editor’s note: At press time, on Nov 3, The DO got word that Nevada’s “Question 3” ballot initiative passed.